IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 1034 OF 2006
IN
APPEAL NO.950 OF 2005
IN
WRIT PETITION NO.1751 OF 2000

Forward Seamans Union of India ...Appellant

V/s

National Union of Seafarers & Ors. ...Respondents

Mr.S.Rustomjee with Mr.Melanic D'Souza i/b.
Mr.K.S.Bapat for the Appellant.
Mr.K.K.Singhvi, Senior Advocate with
Mr.R.N.Salgaonkar i/b. Salgaonkar & Co. for
Respondent No.1
Mr.S.R.Rajguru with Mrs.S.V.Bharucha with Mrs. Ritu
Singh for Respondent Nos.2,3 & 4.
Mr.J.P.Cama, Senior Advocate with Mr.S.U.Uttam i/b.
Mulla & Mulla & CBC for Respondent No.5.
Mr.Jayprakash Sawant for Respondent No.6.
Mr.V.P.Patil for Respondent No.7.

CORAM : DR.S.RADHAKRISHNAN &
S.J.VAZIFDAR, JJ.

DATE : 4TH APRIL, 2006.

P.C.:

1. Heard the learned Counsel for the parties. The present Notice of Motion has been taken out by Respondent No.5, Indian National Shipowners Association, for certain reliefs. We have perused the order dated 11th February, 2004 passed by the Division Bench in Notice of Motion No.326 of 2004, wherein the said Notice of Motion was disposed of with the consent of all the parties which reads as under :-

i) The Regional Labour Commissioner, Mumbai shall conduct the verification of

membership of the Unions operating in shipping industry at Mumbai.

ii) All the parties as noted above shall appear before the Regional Labour Commissioner, Mumbai on 12th March, 2004. The Regional Labour Commissioner shall hear the aforesaid parties on the question of mode and method of verification on that day or any other date that may be fixed by him and take decision regarding the mode and method of verification as early as possible but in no case later than two months from the date of appearance of the parties viz. 12th March, 2004. The Labour Commissioner, thereafter, shall conduct the verification of the membership of the Unions operating in shipping industry at Mumbai in accordance with the mode and method decided by him as early as possible and in any case not later than three months from the date of such decision.

2. We have also perused the order dated 27th August, 2004 passed in Notice of Motion No.2423 of 2004 wherein in paragraph 2, this Court had specifically declined to grant reliefs in prayer clauses (b) & (c) which read as under :-

b) This Hon’ble Court may please to direct the Regional Labour Commissioner to carry of verification of membership only in disputed sectors that is to say seamen employed in Home Trade Sectors and seaman and petty officers and offshore sectors (employed anywhere in India by members of 5th Respondent Association) excluding Seaman and Petty Officers in Foreign going sector.

c) This Hon’ble High Court may be pleased to direct that order passed herein will be applicable to all members of Respondent No.5 located all over India.

3. We have also perused the report of the Labour

Commissioner dated 21st December, 2005, wherein it is apparent that the Appellant has simply dumped their records in the office and failed to depute their Representative for the verification despite repeated reminders. In view thereof, the Labour Commissioner had rightly excluded from the verification process of members of Forward Seamens Union of India being the Appellant herein. It is an admitted fact that the Appellant had not even participated in the said process of verification. From the said verification report it is very clear that Respondent No.1 - Union has the majority membership of 9022 members, Respondent No.6 - Union has a membership of 200 members and Respondent No.7 has a membership of 578.

4. In the above Notice of Motion, Respondent Nos.6 & 7 are supporting Respondent No.1. Mr.Singhvi, the learned Counsel appearing on behalf of Respondent No.1 as well as the learned Counsel appearing on behalf of Respondent Nos.6 & 7 categorically state that none of their members, servants, agents will demonstrate, agitate or coerce the officers, employees and members and or a person dealing with them at Respondent No.5’s office premises at 22, Maker Tower "F", Cuffe Parade, Mumbai - 400 005. There has been no wage revision for last nearly five years. Under the aforesaid facts and circumstances of the case, Notice of Motion is made absolute in terms of prayer

clauses (a) and (c). As far as prayer (c) is concerned, Respondent No.5 shall negotiate with Respondent No.1-Union which has been found to be having a largest number of membership as is apparent from the report of the Regional Labour Commissioner.

5. Needless to state that this order will be without prejudice to the order that may be passed in Notice of Motion Nos.268 of 2006 and 3678 of 2004. Mr.Cama, the learned Senior Counsel states that Respondent No.5 will forthwith start the negotiations.

(DR.S.RADHAKRISHNAN,J.)

(S.J.VAZIFDAR,J.)